



CHEMONICS INTERNATIONAL INC.



NICARAGUA ECONOMIC ANALYSIS AND RECOMMENDATION 1:  
REFORM MATRIX I  
KEY INSTITUTIONAL REFORMS TO ADMINISTER CAFTA

BRIEFING PAPER FOR IMPROVING THE BUSINESS AND INVESTMENT CLIMATE  
AND IMPLEMENTING ECONOMIC REFORMS IN NICARAGUA UNDER THE  
GENERAL BUSINESS TRADE AND INVESTMENT  
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## KEY INSTITUTIONAL REFORMS TO ADMINISTER CAFTA

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### A. Introduction

Chemonics' team met with key government officials involved with CAFTA negotiations, including the Director of International Trade for the Ministry of Trade, Industry and Development (MIFIC), to assess needed institutional reforms to successfully administer CAFTA. From the outset, the GON stated that CAFTA administration will represent a serious challenge to Nicaragua given (1) the lack of resources to hire new staff, (2) the lack of experience in administering any TLC agreement, (3) the numerous inter-institutional changes needed, and (4) the cumbersome coordinating effort that CAFTA administration will entail. While no official matrix exists on the numerous changes required, an overview of the most obvious and important institutional adjustments is mentioned below.

### B. Changes on the International Trade Institutional Framework:

1. *Quota Administration System.* Negotiated quotas for peanuts, cheese, textile, meat and sugar will have to be administrated by the GON; however, the MIFIC has no system at this time. To this end, a proposal will be prepared and presented by June 2004 to establish a new "Quota Administration Office" within MIFIC. The GON is under pressure from producer groups as to what procedure will be used to administer the quotas. In the case of sugar, few producers are involved and the sugar sector enjoys strong organization; it is expected that this sector will make a proposal on how to administer the sugar quota.
2. *Environment and Trade.* Nicaragua is inexperienced in linking environmental concerns to trade. CAFTA's environmental chapter commits the GON to periodic reports on environment and trade issues. To adhere to this chapter, MIFIC, and the Ministry of the Environment and Natural Resources (MARENA) will have to strengthen their technical capability. MARENA has opened a new office headed by Maria Antonieta Rivas, CAFTA's negotiator for environmental issues. A similar office is needed at MIFIC to guarantee full coverage and prompt reporting.
3. *Sanitary and Phyto-Sanitary Issues.* SPS issues are important for successful administration of CAFTA, both to ensure that Nicaraguan's export products are not subject to unfair non-tariff barriers and that the country is protected from unacceptable risks from the import of vegetable and animal products. A new office to deal with SPS issues will have to be established in coordination with the Ministry of Agriculture, Livestock, and Forestry (MAGFOR). This office is also key in helping the country focus its efforts on the supply chain support system dealing with accreditation, permits, certification, quality assurance, and others.
4. *Production of Generic Medicine.* In coordination with the Ministry of Health, (MINS), MIFIC has to open an office to handle trade and production of generic medicines in Nicaragua.
5. *Intellectual Property.* While in Nicaragua has made significant advances in the implementation of modern intellectual property legislation, a specialized office on this subject will be required to properly follow up with this area of trade.

6. *Labor and Trade.* MIFIC will have to establish a strong alliance with the Ministry of Labor (MITRAB) in order to fulfill the commitments stated under the CAFTA labor chapter. The GON is committed to submitting yearly reports to assure country compliance with (1) labor rights, (2) child labor, and (3) labor association rights conditions. One important obstacle to this chapter and its successful implementation comes from MITRAB's rather conservative position on recognizing labor unions' rights. Contrary to the experience of other countries in the region, Nicaragua doesn't have a tripartite system including the GON, the labor unions, and the private sector to ventilate labor-business issues. A proposal to establish a Labor Institute that hosted such a tripartite system was presented during the negotiation process and received the support from both the United States' negotiating side and MIFIC; but it was strongly rejected by MITRAB. Serious coordinating effort is needed between MIFIC and MITRAB on this issue before the country can comply with the commitments included in the labor chapter. Perhaps a higher directive from the Presidency will be needed before the appropriate mechanisms can be established.

### **C. Controversy Resolution Mechanism**

During the meeting, MIFIC admitted that, until last year, the ministry was not providing any support to producer groups involved in any type of trade-related controversy with other countries. Last year, several significant controversial trade issues erupted, which were impossible for the GON to ignore. Unlike a year ago, which passed without issue, this year MIFIC is involved in four controversial trade cases including: (1) a beef case against Honduras, (2) a beans case against Mexico in the WTO, (3) a beans and poultry case against the Dominican Republic, and (4) together with Honduras, a cigarette suit against the Dominican Republic. Other potential cases include a meat case against Mexico and a beans case against Costa Rica. These cases have stated the obvious need for a specialized office within MIFIC to deal with resolution of disputes. It takes from one to several years to prepare a case, using very specialized technical skills in international trade law, anti-dumping, trade conflict resolution, and others. A trade controversy resolution office is needed to provide the specialized technical and legal assistance that producer groups need to defend their interests both in Nicaragua and in other trading partnerships.

### **D. Outreach and Participation**

One relevant aspect of the CAFTA's negotiation process was the successful outreach and participation process that MIFIC established under the "CAFTA Consultation Forum." Through this outreach model the GON generated an active participation of the private sector, labor organizations, and the broader civil society groups. In the end, Nicaragua emerged as the country with the strongest support of its private sector in the negotiation process. This participation process was also critical to dismiss undeserved criticisms of CAFTA coming from groups that traditionally oppose globalization and trade liberalization.

CAFTA requires that broad outreach programs be in place to guarantee broad participation of the society in the implementation of the agreement, especially under the environmental and labor chapters. Moreover, the successful experience under the "CAFTA Consultation Forum" has generated high expectations among groups who want to continue their participation in implementing the agreement. Accordingly, an evaluation of the forum will take place in the next couple of months to explore the best outreach mechanisms to promote and guarantee broad participation. Given the

multiple dimensions required of the participatory process and the need to establish a permanent dialog between the GON and the civil society on trade, environment, and labor issues, it may no longer be appropriate to host this mechanism within the International Trade Office at MIFIC or even within MIFIC at all. Another issue to be examined is whether the topics for discussion will be grouped by products (as it was during the CAFTA negotiation) or by another more efficient mechanism more conducive to competitiveness and growth. One important aspect of any proposed outreach mechanism is that it should involve the consumer and consumer's protection groups as key participants.

## **E. Concluding Remarks**

The multi-dimensional and multi-institutional coordinating systems that need to be established during 2004 for Nicaragua to effectively administer CAFTA poses a serious challenge to Nicaragua. El Salvador has already hired a team of 20 professionals to establish controls and administration mechanisms for CAFTA. In contrast, the MIFIC minister has informed his staff that there will be no new hiring during 2004 and that perhaps a small team can be added in 2005, due to budgetary constraints. It is estimated that at least 10 new professionals are needed for Nicaragua to manage administration of the CAFTA agreement. A failure to perform institutional reforms could not only hinder the country's possibility to take full advantage of the new economic opportunities resulting from CAFTA, but could also result in costly penalties to Nicaragua. It is critical for the GON to understand the importance of these institutional adjustments and coordinating processes, and the need to provide all the support required by the reform process.